IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2342 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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UNITED INDIA INSURANCE CO LTD - Appellant(s)
Versus
PUNAMBEN WD/O SANTOKSING KARTARSING & 3 - Defendant(s)

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Appearance :
MR PV NANAVATI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/07/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and award dated 20.07.92 passed by the Civil Judge(S.D) Surat and Workmen's compensation Commissioner in Workmen's Fatal Case No. 21/90 whereby the original applicant was awarded sum of Rs. 96,797/- alongwith 12% interest by way of compensation.

2. The original appellants being the wife and legal heirs of the deceased filed a claim petition seeking compensation in respect of the accident which occurred on

10.09.87 when the deceased who was working as a truck driver with the original opponent no.1. On the said day, at about 8.00 am the deceased was driving truck bearing no. GRW 2689 which met with an accident killing the driver, one buffalo and injuring two passengers and a buffalo. The trial court after hearing the parties passed the aforesaid award.

3. Mr P.V Nanavati, learned counsel for the appellant has contended that the Commissioner has erred in taking the deceased's income for the purpose of computing compensation under section 4 read with schedule 4 at Rs. 1200/- per month. He has further contended that the Commissioner has also erred in awarding interest at the rate of 12% per annum on the amount of compensation from the date of accident.

4. Heard learned counsel for the appellant. As a result of hearing and perusal of records, I am of the opinion that the trial court after going through various oral and documentary evidence regarding the income of the deceased, more particularly Ex. 23, has concluded the income at Rs. 1200/- per month. The trial court has also concluded that the deceased was not negligent and therefore was liable compensation under Section 3(2) of

the Workmen's Compensation Act which is just and proper.

5. However, the contention of the appellant regarding rate of interest is required to be accepted in-as-much as the accident occurred in the year 1987 whereas the amendment under section 4(A) came into force with effect from 15.09.1995. In that view of the matter, interest of justice will be served by levying interest at the rate of 6% which was prevalent at the relevant time.

6. In the premises aforesaid, appeal is partly allowed. The rate of interest levied on the amount of compensation shall be at the rate of 6% per annum. The balance amount of interest at the rate of 6% per annum shall be refunded to the insurance company. The award of the trial court is modified to the aforesaid extent. No order as to costs.

(K.S. JHAVERI, J.)

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